



THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Tom C. King
State Auditor
Austin, Texas

Dear Sir:

Opinion No. 0-1480

Re: Validity of old age assistance
warrants held by investors.

We are pleased to comply with your request for our opinion on the following question submitted by your letter of September 22nd:

"If a financial institution or investor should buy \$150,000.00 old age assistance warrants from recipients of old age assistance. or the holders of such warrants, and sell them in his/its portfolio, would such holding in any manner affect the legality of the instruments as an obligation of the state prior to the running of the statute of limitation on state warrants?"

As you point out in your letter, Article 4371, Revised Civil Statutes of Texas, 1925, as amended, Acts 1931, 42nd Legislature, p. 396, Chapter 242, § 1, provides:

"The Treasurer shall countersign and pay all warrants drawn by the Comptroller on the Treasury which are authorized by Law. No money shall be paid out of the Treasury except on the warrants of the Comptroller, and no warrant shall be paid by the Treasurer unless presented for payment within two years from the close of the fiscal year in which such warrant was issued, but claims for the payment of such warrants may be presented to the Legislature for appropriations to be made from which such claims may be paid."

Old age assistance warrants issued against the "State Department of Public Welfare Fund" under authority of Senate Bill No. 36, Acts 1939, 46th Legislature, are unquestionably valid obligations of the State payable out of said fund. Such warrants are transferable, though not negotiable. Their validity cannot be in anyway affected by the fact that they may be transferred to investors and held by them so long as they are presented to the State Treasurer for payment "within two years from the close of the fiscal year" in which such warrants are issued. Nor is such warrant holder's security of payment impaired for failure to present such warrants promptly to the Treasurer for payment. Article 4386, Revised Civil Statutes, controls the payment of these warrants and provides that:

" . . . in the event of a question and necessity arising as to the priority of payment of any such warrants, they shall be paid in order of their serial number . . . "

In accordance with this Article the Treasurer is required to maintain in any fund out of which outstanding warrants are payable, sufficient money to pay such outstanding warrants at all times, before he may pay other warrants bearing a subsequent serial number. See Williamson vs. Franklin County, 94 S. W. (2d) 1190.

Yours very truly

ATTORNEY GENERAL OF TEXAS

s/ Walter R. Koch

By

Walter R. Koch
Assistant

WRK:N/ldw

APPROVED SEP. 25, 1939

s/ W. F. Moore
FIRST ASSISTANT
ATTORNEY GENERAL

APPROVED
OPINION
COMMITTEE
BY B. W. B.
CHAIRMAN